

BOARD OF ZONING APPEALS

Minutes

November 18, 2003

The regular meeting of the Board of Zoning Appeals of the City of Wichita, Kansas, was held at 1:30 p.m. on November 18, 2003, in the Planning Department Conference Room, Tenth Floor of City Hall, 455 N. Main, Wichita, Kansas.

The following Board members were in attendance:

JAMES RUANE, JOHN ROGERS, ERMA MARKHAM, BICKLEY FOSTER,
DWIGHT GREENLEE, present.

The following Board members were absent:

RANDY PHILLIPS, and JAMES SKELTON.

SHARON DICKGRAFE -- Law Department present.

HERB SHANER -- Office of Central Inspection present.

The following Planning Department staff members were present:

SCOTT KNEBEL Assistant Secretary.

ROSE SIMMERING, Recording Secretary.

RUANE Item #1, October 21, 2003 BZA meeting minutes.

FOSTER moves, MARKHAM seconds to approve October 18, 2003.

Motion Carries 5-0.

RUANE Item #2, approve BZA 2004 Yearly Calendar.

ROGERS There are two dates in July for notice to the clerk is that correct?

KNEBEL Yes.

RUANE How do our terms on this Board relate to this Yearly Calendar.

KNEBEL The terms expire June 30th, and none of them expire next year. They expire in 2005 or 2007.

FOSTER I have looked over the dates and note that they are all 20 days advertised and that they have avoided the holidays so it looks in good shape to me.

ROGERS moves, MARKHAM seconds to approve BZA 2004 yearly Calendar.

Motion Carries 5-0.

RUANE Item #3, Case No., BZA2003-58, Request a Variance to increase the size of an identification sign for Westar from 48 square feet to 125 square feet on property zoned "B" Multi-family Residential, Applicant, Westar Energy, Agent, Trimark Signworks, c/o Bryon West, General Location, South of Central and east of Nims.

KNEBEL, Planning staff Presents staff report and slides. Staff recommends approval, subject to conditions, in the following report:

SECRETARY'S REPORT

CASE NUMBER: BZA2003-00058
OWNER/APPLICANT: Westar Energy c/o Martin O'Dell
AGENT: Trimark Signworks c/o Byron West
REQUEST: Variance to Section 24.04.191 of the Sign Code to increase the permitted size of an identification sign along an arterial street from 48 square feet to 125 square feet
CURRENT ZONING: "B" Multi-Family and "LI" Limited Industrial
SITE SIZE: 13.6 Acres
LOCATION: South of Central and east of Seneca (777 W. Central)

JURISDICTION: The Board has jurisdiction to consider the variance request under the provisions outlined in Section 2.12.590.B, Code of the City of Wichita. The Board may grant the request when all five conditions, as required by State Statutes, are found to exist.

BACKGROUND: The subject property is zoned "B" Multi-Family and "LI" Limited Industrial and is developed with a building located on the southern portion of the property zoned that is "LI" Limited Industrial. The applicant proposes to use the existing building as an office that is open to the public and indicates that the office needs a sign to allow customers to locate the facility. However, the subject property's Central Avenue frontage is zoned "B" Multi-Family, which has significant restrictions on the size of sign permitted. Therefore, the applicant is requesting a variance to Section 24.04.191 of the Sign Code to increase the permitted size of a sign along Central from 48 square feet to 125 square feet.

The portion of the subject property where the proposed office facility will be located has approximately 400 feet of frontage along Central, and were the subject property entirely "LI" Limited Industrial, a sign approximately 240 square in size would be permitted. However, in the "B" Multi-Family zoning district, the Sign Code limits the sign to 48 square feet in size thus necessitating the application for a variance to permit the proposed 125 square foot sign.

The applicant submitted the attached elevation drawing showing the proposed 125 square foot sign. The size of the proposed sign is calculated by calculating the area of a box that encloses the maximum extent of all letters and logos contained on the sign. The proposed sign would face Central as illustrated on the attached site plan. Including the base upon which the sign would be mounted, the proposed sign would be approximately 9 feet in height and 27 feet in length. The proposed sign would contain internally illuminated channel letters. The applicant submitted the attached statement pertaining to the five conditions for granting the variance requested.

ADJACENT ZONING AND LAND USE:

NORTH	"B" & "TF-3"	Garden apartments and tennis center
SOUTH	"LI" & "LC"	Park and museum
EAST	"GC"	High-rise office building
WEST	"TF-3"	Museum

UNIQUENESS: It is the opinion of staff that this property is unique, inasmuch as the property has split zoning with the street frontage where the proposed sign would be located zoned "B" Multi-Family, which has significantly greater signage restrictions than the "LI" Limited Industrial zoning district upon which the use needing to be identified with a sign is located. Additionally, the property has sufficient frontage along an arterial street to allow the proposed sign were the street frontage zoned the same as the portion of the property where the use to be identified by the proposed sign is located.

ADJACENT PROPERTY: It is the opinion of staff that the granting of the variance requested will not adversely affect the rights of adjacent property owners, inasmuch as the adjacent properties are developed with high-density residential or non-residential uses that will not be adversely impacted by the proposed sign.

HARDSHIP: It is the opinion of staff that the strict application of the provisions of the sign regulations will constitute an unnecessary hardship upon the applicant, inasmuch as limiting the sign to the size permitted by the zoning of the property's street frontage would be not be adequate for business identification along an arterial street.

PUBLIC INTEREST: It is the opinion of staff that the requested variance would not adversely affect the public interest, inasmuch as the signage is tasteful in design, is of an appropriate scale and has minimal lighting.

SPIRIT AND INTENT: It is the opinion of staff that the granting of the variance requested would not oppose the general spirit and intent of the Sign Code inasmuch as the regulations for most uses located along arterial streets allow for larger signs based on the length of the street frontage; whereas, the residential zoning districts, which subject property's frontage is zoned, do not have such a provision for an increase in sign square footage based on the length of the street frontage.

RECOMMENDATION: It is staff's opinion that the signage requested is appropriate for the intended purpose of identifying the location of an office building open to the public on the subject property. Should the Board determine that the five conditions necessary for the granting of the variance exist, then it is the recommendation of the Secretary that the variance be GRANTED, subject to the following conditions:

1. The identification sign shall be placed in a location that is in substantial conformance with the approved site plan.
2. The identification sign shall be of a design that is in substantial conformance with the approved elevation drawing.
3. The identification sign shall be limited to 125 square feet in area, 9 feet in overall height, and internal illumination by white light.
4. The existing identification sign on the subject property shall be removed.
5. The applicant shall obtain all permits necessary to construct the signage, and the signage shall be erected within one year of the granting of the variance, unless such time period is extended by the Board.
6. The resolution authorizing the variance may be declared null and void upon findings by the Board that the applicant has failed to comply with any of the foregoing conditions.

RUANE Where is this building? Can you point to it on the map?

KNEBEL Points out building on map.

FOSTER The apartments across the street, is there vegetation there on the north side on the right-of-way?

KNEBEL There are some trees in the right-of-way along Central on the north side. It is not significant. It is mostly bike path.

FOSTER They kind of breaks up the view from across the street?

KNEBEL Yes, there are more trees on the apartment properties as well.

GREENLEE Is the neon light is it about the same as a street light?

KNEBEL Probably less light, internally illuminated light with these channel letters is kind of a back lighting.

LES MOCK, WDM ARCHITECTS, 105 N. Washington, Because of the wording of the recommendations we wanted to show an alternate site plan for the Board to review. There was some concern expressed by the owner. With all the vegetation that is currently on this site, they wanted adequate visibility of that sign so people approaching this facility would know where to turn in. We marked several locations with yellow caution tape to get a feel for where the sign should be.

RUANE What will the particular function be of the people who go there?

MOCK I don't have a full knowledge of that.

RUANE So the yellow tape designates the new sign locations?

MOCK Yes, we marked several locations to give the management an idea of where the sign would be.

MARKHAM Is this the entry way?

MOCK There are two entrances on either side of the building.

MARKHAM Do you have a sign that says entrance or exit?

MOCK No.

FOSTER It mentions removing the existing sign where is it?

MOCK I believe there is a small sign just to the east of the east drive.

FOSTER Very small.

KNEBEL I think it is probably a 3' X 5' sign or something like that.

ROGERS How far is the sign from the street?

MOCK About 7-8 feet beyond the sidewalk about 8 feet out of the right-of-way.

KENT MEYERS, WESTAR ENERGY, Since the change of senior management, this building has become the Wichita corporate headquarters for Westar Energy. We are trying to show corporate presence in Wichita, and we want everyone to know what is there. We had the City Manager, City Mayor and neighborhood meetings and we are trying to let people know where we are.

RUANE Will any monthly payment of bills be paid here?

MEYERS No.

FOSTER I like the idea that it is a low monument type sign, and there is landscaping in between.

RUANE I too think it is necessary and appropriate to help find the building and to know what is located there.

GREENLEE MOVES MARKHAM SECONDS THAT THE BOARD ACCEPT THE FINDINGS OF FACT AS SET FORTH IN THE SECRETARY'S REPORT; AND THAT ALL FIVE CONDITIONS SET OUT IN SECTION 2.12.590(b) OF THE CITY CODE AS NECESSARY FOR THE GRANTING OF A VARIANCE HAVE BEEN FOUND TO EXIST AND THAT THE VARIANCE BE GRANTED SUBJECT TO THE CONDITIONS SET OUT IN BZA RESOLUTION NO. BZA2003-00058.

Motion carries 5-0, and the Board adopts the following resolution:

BZA RESOLUTION NO. 2003-00058

WHEREAS, Westar Energy, c/o Martin O'Dell (owner/applicant); Trimark Signworks, c/o Bryon West, pursuant to Section 2.12.590.B, Code of the City of Wichita, requests a Variance to Section 24.04.191 of the Sign Code to increase the permitted size of an identification sign along an arterial street from 48 square feet to 125 square feet on property zoned "B" Multi-family Residential and "LI" Limited Industrial and legally described as follows:

Lot 1, Block 3, Park Plaza 1st Addition, Wichita, Sedgwick County, Kansas. Generally located south of Central and east of Seneca.

WHEREAS, proper notice as required by ordinance and by the rules of the Board of Zoning Appeals has been given; and

WHEREAS, the Board of Zoning Appeals did, at the meeting of November 18, 2003, consider said application; and

WHEREAS, the Board of Zoning Appeals has proper jurisdiction to consider said request for a variance under the provisions of Section 2.12.590.B, Code of the City of Wichita; and

WHEREAS, the Board of Zoning Appeals has found that the variance arises from such condition which is unique. It is the opinion of the Board that this property is unique, inasmuch as the property has split zoning with the street frontage where the proposed sign would be located zoned "B" Multi-Family, which has significantly greater signage restrictions than the "LI" Limited Industrial zoning district upon which the use needing to be identified with a sign is located. Additionally, the property has sufficient frontage along an arterial street to allow the proposed sign were the street frontage zoned the same as the portion of the property where the use to be identified by the proposed sign is located.

WHEREAS, the Board of Zoning Appeals has found that the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents. It is the opinion of the Board that the granting of the variance requested will not adversely affect the rights of adjacent property owners, inasmuch as the adjacent properties are developed with high-density residential or non-residential uses that will not be adversely impacted by the proposed sign.

WHEREAS, the Board of Zoning Appeals has found that the strict application of the provisions of the zoning ordinance of which variance is requested will constitute unnecessary hardship upon the property owners represented in the application. It is the opinion of the Board that the strict application of the provisions of the sign regulations will constitute an unnecessary hardship upon the applicant, inasmuch as limiting the sign to the size permitted by the zoning of the property's street frontage would be not be adequate for business identification along an arterial street.

WHEREAS, the Board of Zoning Appeals has found that the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare. It is the opinion of the Board that the requested variance would not adversely affect the public interest, inasmuch as the signage is tasteful in design, is of an appropriate scale and has minimal lighting.

WHEREAS, the Board of Zoning Appeals has found that the granting of the variance desired will not be opposed to the general spirit and intent of the zoning ordinance. It is the opinion of the Board that the granting of the variance requested would not oppose the general spirit and intent of the Sign Code inasmuch as the regulations for most uses located along arterial streets allow for larger signs based on the length of the street frontage; whereas, the residential zoning districts, which subject property's frontage is zoned, do not have such a provision for an increase in sign square footage based on the length of the street frontage.

WHEREAS, each of the five conditions required by Section 2.12.590.B, Code of the City of Wichita, to be present before a variance can be granted has been found to exist.

NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals, pursuant to Section 2.12.590.B, Code of the City of Wichita, a Variance to Section 24.04.191 of the Sign Code be granted to increase the permitted size of an identification sign along an arterial street from 48 square feet to 125 square feet on property zoned "B" Multi-family Residential and "LI" Limited Industrial and legally described as follows:

Lot 1, Block 3, Park Plaza 1st Addition, Wichita, Sedgwick County, Kansas. Generally located south of Central and east of Seneca.

The variance is hereby GRANTED, subject to the following conditions:

1. The identification sign shall be placed in a location that is in substantial conformance with the approved site plan.
2. The identification sign shall be of a design that is in substantial conformance with the approved elevation drawing.
3. The identification sign shall be limited to 125 square feet in area, 9 feet in overall height, and internal illumination by white light.
4. The existing identification sign on the subject property shall be removed.
5. The applicant shall obtain all permits necessary to construct the signage, and the signage shall be erected within one year of the granting of the variance, unless such time period is extended by the Board.
6. The resolution authorizing the variance may be declared null and void upon findings by the Board that the applicant has failed to comply with any of the foregoing conditions.

ADOPTED AT WICHITA, KANSAS, this 18th DAY of NOVEMBER 2003.

HERB SHANER OCI – BZA2002-44 Variance to reduce the building setback for an expansion of a school building, on property zoned "TF-3" Two-Family residential and "LC" Limited Commercial, generally located at the southwest corner of Maple and Meridian, is in compliance.

BZA2002-72 – Variance to Section 24.04.221 (3) of the Sign Code to increase the maximum permitted height of a pole sign for a motel from 25 feet to 30 feet on property zoned "GC" General Commercial, generally located south of Kellogg and east of Dugan, is in compliance.

BZA2003-39 – Variance to Section 24.04.195.2 of the Sign Code to permit a sign not having street frontage or fronting 150 feet of parking lot on property zoned “LC” Limited Commercial, generally located south of Central and east of Winterset, is in compliance.

FOSTER I would like to report to you that after the Airport Overlay case I received a call from Kim Edgington and they intend to apply to change the regulations to make it a numerical change rather than a use change. There was a newspaper article about a group being formed to protect McConnell AirForce Base, and this is done periodically when the base may or may not be threatened.

RUANE I request that staff notify the BZA.

MEETING adjourned 2:30 p.m.